



August 2, 2023

Via PACER

Hon. Miroslav Lovric, U.S. Magistrate Judge
US District Court
Northern District of New York
Binghamton U.S. Courthouse
15 Henry St.
Binghamton, NY 13901

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RE: Prepared Food Photos, Inc. v. Park Place Restaurant, LLC
Index No. 3:23-cv-00170
KSLN File No. 44603

Your Honor:

I represent the defendant PARK PLACE RESTAURANT, LLC d/b/a PARK PLACE SPORTS AND GRILL ("Defendant") in this matter. As you may know, the parties recently reached a tentative settlement agreement.¹ However, since that agreement, there has been some disagreement over the inclusion of provisions in a settlement release agreement regarding confidentiality and imposition of attorneys' fees in the event of any subsequent litigation. Given this issue, the case has been reopened,² with the Court on this date issuing a text order directing an answer be filed by August 14, 2023, setting a Rule 16 conference date, and directing for the exchange of mandatory disclosures.³

However, it appears that this directive may have been made in error as, prior to settlement, there was a pending FRCP Rule 12(b)(6) motion to dismiss.⁴ That being the case, Defendant requests that the Court reverse its text order, and instead, set deadlines for plaintiff's opposition to the pending motion to dismiss and Defendant's reply.

In the meantime, Defendant is considering other options, including a potential motion to enforce settlement. Should the Court require anything further, please do not hesitate to contact me.

Respectfully,

KENNEY SHELTON LIPTAK NOWAK LLP

A handwritten signature in blue ink, appearing to read 'Daniel K Cartwright'.

Daniel K Cartwright, Esq.
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DKC/

cc (via PACER): Daniel DeSouza, Esq.

¹ See dkt. #18.

² Dkt. ##23-24.

³ Dkt. #25.

⁴ See dkt. ##11-17.